

	COMMUNICATIONS STRATEGY	
	Action: California WaterFix, Supplemental Draft EIS Review and Comments	
	Action Date: 10/30/15	Level of Public Interest: High

Desk Statement: EPA issued detailed comments on the Draft EIS for the Bay Delta Conservation Plan on August 24, 2014, but withheld a rating at that time because the lead agencies agreed to prepare a Supplemental DEIS to address comments they received from the public and other agencies and independent science reviews. The project was subsequently recast as the California WaterFix, and the Supplemental Draft EIS was released for public review on 7/10/15. EPA has reviewed the Supplemental Draft EIS, and is now providing a rating.

Project Description and Location: The California WaterFix project evolved from the Bay Delta Conservation Plan and is now focused on the construction and operation of proposed new water export intakes on the Sacramento River to divert water into a proposed 40 mile twin tunnel conveyance facility. The WaterFix aims to secure California's water supply through a state action of building a new water delivery infrastructure and a federal action of operating the system to improve the ecological health of the Delta. EPA is responding with NEPA comments on a Supplemental DEIS. Our comments on this project in Aug 2014 were extensive, but did not include a rating.

Action Description: No later than October 30, 2015, EPA will submit formal comments on the California WaterFix Supplemental Draft EIS to the lead agency for compliance with NEPA - Bureau of Reclamation. We submitted our draft letter to EPA HQ Office of Federal Activities and Office of Water on October 9, 2015 for their comments. On October 26, 2015, we submitted our final draft letter to Jared, Cynthia Giles (OECA) and Ken Kopocis (OW) for their concurrence. Jared will sign the letter for EPA Region IX.

EPA Points of Contact

NEPA Contact	ENF	Stephanie Skophammer- until October 13, then it is Jean Prijatel	415-972-3098 415-947-4167
ERS Manager	ENF	Kathleen Goforth	415-972-3521
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Water Div. Staff	WTR-3	Erin Foresman	916-557-6843
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Sr. Policy Advisor	WTR-1	Tim Vendlinski	415-972-3469
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Cong. contact	OPA	Brent Maier	415-947-4256
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Project Description and Background

Recent Project History/Issues:

Importance of Delta: The California economy needs a healthy and structurally sound Delta. The Delta provides drinking water to over 25 million residents, supports the State's \$27 billion agricultural sector, provides recreation for 12 million user-days each year, and provides migratory habitat for two-thirds of the salmon that originate in California.

Impairments in the Delta: The Delta has lost the water quality characteristics needed for a healthy estuary – a brackish (low salinity) zone, shallow water habitat and complex wetland channels, water column turbidity, and dissolved oxygen. Moreover, human activities have seriously degraded the cold water flows in the rivers that salmon need to spawn and migrate.

Previous NEPA Activity: EPA agreed to be a cooperating agency¹ in the preparation of this EIS/EIR on November 12, 2008. EPA provided extensive comments on the Administrative Drafts of the BDCP EIS in 2012 and 2013 as part of the Interagency Management Team and pursuant to our review under Section 309 of the Clean Air Act. EPA issued DEIS comments on August 24, 2014, but withheld a rating at that time because the lead agencies agreed to prepare a Supplemental DEIS that addressed comments they received from the public and other agencies and independent science reviews. EPA reviewed administrative drafts of the SDEIS in the spring 2015, and brought up many concerns that were not addressed when the SDEIS was published on July 7, 2015.

Note: CEQ has convened several meetings with all involved federal agencies to monitor progress on the project

Proposed Rating (*subject to change*): EPA is proposing to rate the Supplemental Draft EIS “3” (Inadequate Information). A “3” implies that not enough information was presented in the document to determine the environmental effects of the proposed project.

Several pending regulatory actions – updates to water quality standards in the Bay Delta Water Quality Control Plan, Endangered Species Act Section 7 consultation, and Clean Water Act Section 404 permitting – will be important to understanding the full impacts of the project. These actions will generate more data and compliance requirements beyond those provided in the SDEIS and will help identify reasonable alternatives and determine the environmental impacts of the project.

¹ In our letter agreeing to be a cooperating agency, EPA emphasized that our role as a cooperator was technical, and that it did not abridge or otherwise affect our independent NEPA review responsibilities under Section 309 of the Clean Air Act and the related CEQ Regulations. 12 local, state and federal agencies are NEPA cooperating agencies for the project.

Next Steps: EPA looks forward to working with Reclamation, other federal agencies, and the State of California as they collectively continue to define an environmentally sound and effective project that would operate in a manner that simultaneously supports water supply reliability and enhances California's fisheries.

The "3" rating reflects EPA's belief that the environmental impacts of the project cannot be determined based on the information in the SDEIS and that the outcome of pending regulatory decisions will provide information needed to identify reasonable alternatives and determine the environmental impacts of the project.

Key Messages for Jared / Press Officer

- *EPA supports the concept of a new conveyance facility that provides greater water supply reliability if the operation of such a facility protects water quality and aquatic life.*
- *Upcoming actions by USFWS, NMFS, the State Water Board, and the Corps of Engineers will be critical steps in identifying appropriate operational scenarios and evaluating the impacts of the project.*
- *Our proposed rating on the document reflects the uncertainty inherent in the information presented in the SDEIS.*
- *The most essential decision for achieving the desired balance between water reliability and restoration of the Bay Delta ecosystem is how freshwater flows through the Delta will be managed. This key decision is not described in the SDEIS.*
- *We will continue to work with the Bureau of Reclamation and the State Department of Water Resources, and other cooperating agencies to seek resolution of our concerns and help develop a project that would contribute to the recovery of the Delta's valuable natural resources and ensure greater water supply reliability.*

Stakeholder Interest

State Interest

The State of California is interested in breaking ground on this project as quickly as possible.

Tribal Interest

None known

Congressional/Political Interest

A bipartisan group of eleven (11) California Members requested an additional 60 days for the public comment period until December 29, 2015 for the partially recirculated environmental documents for the Cal Water Fix / Bay Delta Conservation Plan. The Members letter states that, "Given the size and complexity of the documents, particularly in light of the 40,000 pages associated with the original EIR/EIS which provides the context and foundation for this latest proposal, we feel the current public comment period is inadequate and an additional 60 days beyond the current review period is warranted," Among the signatories on the letter are

Representatives Jeff Denham, John Garamendi, Doug La Malfa, Jared Huffman, Doris Matsui, Ami Bera, Mike Thompson, Jerry McNerney, Eric Swallwell, Mark DeSaulnier, and Tom McClintock.

The request was denied by the Bureau of Reclamation.

Other Stakeholders

The primary stakeholders for the project are the agricultural and urban water agencies (including, among others, Westlands Water District and Metropolitan Water District) in the San Joaquin Valley (SJV) and Southern California Coast (SoCal), respectively. Those agencies have pooled their resources to fund the studies and the preparation of the NEPA and CEQA documents, and may contribute funding to the construction of the project.

In contrast, in-Delta farming interests oppose the proposed project for two main reasons: (1) concern the direct diversion of water from the Sacramento River will remove the highest quality of water from the interior Delta and increase the salinity of irrigation water; and (2) concern that once the pipes are installed and the water supply for the San Joaquin Valley and Southern California are secured, there will be no incentive for the government and water agencies to maintain the vulnerable levees, thereby making catastrophic levee collapse more likely.

In addition, other business interests in the Delta represented by the Greater Stockton Chamber of Commerce have raised concerns regarding the adverse economic impacts of the proposed project to their region in a letter dated October 23, 2015. The letter states that the diversion of large amounts of water from the Sacramento River will directly impact the region's economic interests by reducing the availability of freshwater in the Delta (Stockton Delta intake project will become inoperable because of salinity; municipal utilities will not be able to discharge into the Delta, increasing costs to residents; business growth will be diminished for lack of clean water supply; Delta recreation will diminish due to a higher concentration of pollutants and marinas being out of the water; etc.). "Stockton and San Joaquin County would experience a disproportionate and unjust portion of the significant and adverse economic and environmental impacts resulting from the project."

Friends of the River, Restore the Delta, and the Environmental Water Caucus recently sent a memo to the heads of multiple federal and state agencies (including EPA), with the subject line: "Re: Refusal of Lead Agencies to Disclose in BDCP/California Water Fix Drafts Significant Adverse Environmental Impacts on Water Quality and Quantity and Fish and Fish Habitat Renders Drafts Useless for Informing Public about Water Tunnels Project", which concludes: *"Extinction is forever. Environmental full disclosure is imperative here. Arbitrary false denials of adverse environmental impacts resulting from new upstream diversion of large quantities of freshwater flows from a Delta already in crisis and from listed fish species and their designated critical habitats are unacceptable. The lead agencies must either drop the Water Tunnels project or provide an informative and honest Draft EIS/EIR that will afford a basis for meaningful public review and comment."*

The Delta Independent Science Board submitted very critical comments on the SDEIS in September, stating: “. . .we find the Current Draft sufficiently incomplete and opaque to deter its evaluation and use by decision-makers, resource managers, scientists, and the broader public.”

Media Strategy

EPA has no plans for any proactive media outreach. The drafted letter will be used as a response to any media inquiries related to this topic.

FAQ

Q. What is EPA’s specific role in this project?

Under Section 309 of the Clean Air Act, EPA is required to review and publicly comment on the environmental impacts of all major federal actions. We previously submitted comments on the DEIS last year. Since that time, we have been providing input on the development of the WaterFix project. Pursuant to our CAA section 309 responsibility, we are now commenting publicly on the Supplemental Draft EIS.

Q. Why is EPA trying to stop or delay the BDCP?

EPA’s role in the NEPA process is to assess whether all potential environmental impacts of the project have been adequately analyzed and disclosed to the public and decision-makers so that informed decisions can be made about future project actions. The information and analysis we have seen to date does not provide sufficient certainty that the project’s, and specifically the proposed federal action, environmental impacts have been adequately disclosed. We believe that upcoming regulatory actions from other state and federal agencies will provide important information to more fully inform Reclamation’s action on the WaterFix project. EPA supports the concept of a new conveyance facility that provides greater water supply reliability if the operation of such a facility protects water quality and aquatic life.

Q. Why does EPA believe the environmental analysis is inadequate?

The environmental impacts of the project cannot be determined based on the information in the SDEIS. The outcome of pending regulatory decisions will provide information needed to identify reasonable alternatives and determine the environmental impacts of the project.

Q. Is BOR required to address EPA’s concerns?

The lead NEPA federal agency is required to respond to all concerns raised during the comment period.

Q. What happens if the lead federal NEPA agency does not sufficiently address EPA’s issues and concerns? Can the project move forward?

Our comments respond to the Bureau of Reclamation’s federal action to operate the proposed new intakes and conveyance structure. BOR’s action will be dependent on the results other state and federal agencies’ regulatory processes. We do not anticipate that our comments will cause delay in the state’s progress through the regulatory process.

[OTHER POTENTIAL QUESTIONS TO INCLUDE]

Q. Does EPA support the concept of conveyance facilities or tunnels in the Delta?

EPA supports the concept of a new conveyance facility that provides greater water supply reliability if the operation of such a facility protects water quality and aquatic life.

Outreach Timeline/Rollout

Proposed timeline below subject to discussion:

Who	What	When (Proposed)	Notes
Jared to call Regional Director of BOR David Murillo	Contact BOR to let them know about our letter and proposed rating.	10/30/15	The specific issues have been discussed in great detail on numerous occasions throughout 2015 with the lead agencies' staffs at the Regional level, so there should be no surprises.
Jean Prijatel	Letter finalized	10/30/15 COB	
Regional Administrator	Letter signed	10/30/15	
TBD	Outreach to CEQ		CEQ has led a series of meetings about BDCP the past several years. Past attendees have included Susan Bromm, Ken Kopocis, Roger Gorke, and Bob Perciasepe.
Regional Administrator	Courtesy calls to the following: <ul style="list-style-type: none"> - Mark Cowin, Director, DWR - John Laird, Secretary, California Natural Resources Agency - Mike Connor, Deputy Secretary, US DOI <i>[PERHAPS KOPOCIS OR GILES SHOULD DO THIS ONE?]</i> - David Murillo, Regional Director, Mid-Pacific, BOR - 		
Jean Prijatel	Email PDF copy of final letter to BOR, DWR	10/30/15 COB	
Kathleen Goforth	Email PDF copy of final letter to OECA, OFA and OW	10/30/15	

Jean Prijatel	Email PDF copy of final letter to the cc list	10/30/15	
Brent Maier (OPA) TBD Press Officer (OPA)	Share PDF copy of EPA's letter with Congressional offices that have expressed interest in the WaterFix; offer to hold individual calls, or a joint call, to discuss EPA's comments.	Week of November 2, 2015	See list under 'stakeholder interest' section.

Project Leads

Program Leads:

ENF (NEPA): Kathleen Goforth, 2-3521

WTR1: Tim Vendlinski, 2-3469

WTR8: Jason Brush, 2-3483

Division Directors/Assistant Directors:

ENF: Kathleen Johnson (DD), 2-3873;

WTR: John Kemmerer (AD), 213-244-1832

Program Communications Liaison:

ENF: Thanne Cox

Office of Regional Counsel:

Tom Hagler, 2-3945

Office of Public Affairs

Press Contact

Congressional Contact, Brent Maier, 7-4256